STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Michigan Head and Spine Institute
Petitioner **File No. 21-1803**

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 20th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 6, 2021, Michigan Head and Spine Institute (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on November 7, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on December 14, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 14, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 23, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 20, 2021. The Current Procedural Terminology (CPT) codes at issue are 97012 and 97535, which are described as mechanical traction and self-care instruction, respectively. In its *Explanation of Benefits* letter, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines for low back disorders and stated that the "treatment exceeds the period of care for either utilization or relatedness."

With its appeal request, the Petitioner submitted medical documentation which identified the injured person's diagnosis as lumbar pain and radiculopathy and noted that the injured person was "showing slow and steady progress in physical therapy." The Petitioner stated, however, that on July 14, 2021, the injured person reported low back pain at 7-8 on a 10-point scale with bilateral lower extremity symptoms extending to the ankles and with a pain level of 6/10 upon bending forward for daily activities.

The Petitioner's request for an appeal stated:

> The [injured person] has not been given the chance to maximize on all treatment modalities. There is equipment…she has been using that is only available in the clinic and thus further treatment visits will be necessary. Her lumbar rehabilitation is complicated as well by her severe migraines…She has an Oswestry Disability Score of 70% on 6/24/2021 which is an improvement from a score of 82% during the initial evaluation on 4/30/2021.

In its reply, the Respondent reaffirmed its position and stated that ACOEM recommends a course of 4 to 6 appointments to initiate a physical therapy program for the injured person's low back condition. The Respondent explained that traction is not a recommended treatment for low back pain and radicular symptoms. The Respondent further referenced Official Disability Guidelines (ODG) in support. The Respondent stated in its reply:

> The physical therapy treatment quantity exceeds the ACOEM and ODG recommendation of up to 12 visits, as it appears, 23 physical therapy sessions were provided. Opportunity has been given to initiate and re-inforce [sic] an independent, home therapeutic, exercise program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed doctor of physical therapy. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on ODG for Auto Injury guidelines and American Physical Therapy Association (APTA) guidelines relating to low back pain for its recommendation.

The IRO reviewer opined that the physical therapy treatments at issue were overutilized. The IRO reviewer explained:

> According to ODG, 10 visits of physical therapy over 8 weeks is recommended for treatment of the [injured person's] condition. Fading of treatment frequency is also recommended plus active self-directed home [physical therapy.] This is in accordance with APTA guidelines. The records indicate the [injured person] had attended 23 visits as of 07/20/2021.

The IRO reviewer further noted that the Petitioner's submitted medical documentation did "not establish medical necessity for treatment beyond the recommended visits of 10 over 8 weeks as there was no documentation of comorbidities."

The IRO reviewer further noted that the injured person experienced a decline in range of motion (ROM) measurements and that the Oswestry score remained severe since the initial evaluation. The IRO reviewer stated that "strength measures demonstrated little to no improvement." The IRO reviewer opined that "there were also no documented reasons as to why the [injured person] could not continue therapy with a home exercise program."

The IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatment provided to the injured person on July 20, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated November 7, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford